

;ARTICLE 86

WIRELESS COMMUNICATIONS EQUIPMENT

(;Article inserted on October 26, 1995*)

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*Date of public notice: July 10, 1995 (see St. 1956, c. 665, s.5).

SECTION 86-1. **Statement of Purpose.** The purpose of this Article is to establish predictable and balanced regulations for the siting and screening of wireless communications equipment in order to accommodate the growth of wireless communications systems within the City of Boston while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare.

SECTION 86-2. **Definitions.** The words and phrases used in this Article, whether or not capitalized, shall have the meanings set forth in Article 2A, except as set forth in this Section 86-2 or as otherwise specified in this Article. For the purposes of this Article, the following words and phrases shall have the meanings indicated:

1. "Antenna," means any antenna mounted out-of-doors for the wireless transmission or reception of electro-magnetic communications signals, but excluding: (a) communications dishes and (b) any antenna measuring less than five (5) feet from base to top that is mounted on a building or vehicle and used solely for the reception of signals for use within the building or vehicle on which the antenna is mounted. "Antenna" includes any device or structure, other than an equipment mounting structure, that is used primarily to attach the antenna to land or to a building or structure.
2. "Communications dish," means any device mounted out-of-doors for the wireless transmission or reception of electro-magnetic communications signals if the surface containing or surrounding the receiving or transmitting device is greater than one (1) foot in width or diameter. "Communications dish" includes any device or structure, other than an equipment mounting structure, that is used primarily to attach such reception or transmission device to land or to a building or structure.
3. "Designated children's play area," means any open space recognized as a children's play area by the City of Boston Parks and Recreation Department or any successor organization thereto.
4. "District," means any zoning designation applicable to a geographic area, including but not limited to districts, subdistricts, overlay districts and special study areas, and any geographic area to which such designation applies.
5. "Equipment mounting structure," means any structure that is used primarily to support reception or transmission equipment and that measures twelve (12) feet or more in its longest vertical dimension. "Equipment mounting structure" includes any accessory mechanical or electronic equipment attached to the supporting structure that is

required for the operation of the reception or transmission equipment and any accessory structures used solely for the housing of the equipment mounting structure and its accessory equipment. Examples of equipment mounting structures include, but are not limited to, monopoles and lattice towers. "Equipment mounting structure" does not include structures used primarily for other purposes, such as water towers, smokestacks, church spires and the like.

6. "Park," means any open space recognized as a park by the City of Boston Parks and Recreation Department or any successor organization thereto.
7. "Proposed installation," means the erection, installation, or extension of any wireless communications equipment that is subject to the provisions of this Article.
8. "Reception and transmission equipment," means antennas, communications dishes and any similar devices used for the wireless transmission or reception of electro-magnetic communications signals.
9. "Residential district," means the following zoning districts and subdistricts:

S	- Single Family Residential
R	- General Residential
H	- Apartment
1F	- One Family
2F	- Two Family
3F	- Three Family
MFR	- Multifamily Residential
MFR/LS	- Multifamily Residential/Local Service
WR	- Waterfront Residential
10. "Wireless communications equipment," means equipment mounting structures and reception and transmission equipment.

SECTION 86-3. **Applicability.** No wireless communications equipment shall be erected or installed out-of-doors except in compliance with the provisions of this Article. The provisions of this Article apply to all wireless communications equipment, whether such equipment is used as a main use or as an accessory use or subuse; provided, however, that the provisions of this Article shall not apply to: (a) any wireless communications equipment mounted on the roof of a building that has a building height in excess of two hundred (200) feet; (b) any equipment mounting structure installed pursuant to a building permit issued prior

to the first notice of hearing before the Zoning Commission for adoption of this Article, or the replacement of such equipment mounting structure with another equipment mounting structure in the same location, provided that any such replacement structure complies with all the dimensional requirements of this Article for equipment mounting structures in such location and with the design requirements of Section 86-4.3; or (c) any reception and transmission equipment validly installed prior to the first notice of hearing before the Zoning Commission for adoption of this Article, or the replacement of any such reception and transmission equipment with other reception and transmission equipment in the same location, provided that any such replacement equipment complies with all the dimensional requirements of this Article for reception and transmission equipment in such location and with the design requirements of Section 86-4.3, and provided further that the number and dimensions of any communications dishes added to an equipment mounting structure do not exceed the number or dimensions of the communications dishes removed from such structure. Exceptions to the provisions of this Article, pursuant to Article 6A, shall not be available except to the extent expressly provided in this Article or Article 6A. Where conflicts exist between this Article and the remainder of this Code, the provisions of this Article shall govern.

SECTION 86-4. Design Review and Design Requirements for All Communications Equipment. Design review, where required by this Section 86-4, shall be conducted under the Design Component of Small Project Review; provided, however, that if a Proposed Installation is part of a Proposed Project that is subject to, or elects to comply with, Large Project Review, the design review required by this section may be conducted as part of such review.

1. Purpose of Design Review. The purpose of the design review requirement of this Section 86-4 is to ensure that wireless communications equipment is sited, designed and screened in a manner that is sensitive to the surrounding neighborhood.
2. Applicability of Design Review. The design review requirement of this Section 86-4 applies to the following Proposed Installations:
 - (a) Equipment Mounting Structures. Any Proposed Installation of an equipment mounting structure, except where such equipment mounting structure is exempt from the provisions of Section 86-5 (Use and Dimensional Regulations for Equipment Mounting Structures) pursuant to Section 86-5.1(b) (Equipment Mounting Structures on Rooftops and Facades).
 - (b) Zoning Relief. Any Proposed Installation requiring zoning relief from any provision of this Article.

If a Proposed Installation is located in any of the following districts:

- M - Restricted Manufacturing
- I - General Industrial
- LI - Local Industrial
- IDA - Industrial Development Area
- LIA - Logan International Airport

the Boston Redevelopment Authority may waive the design review requirement of this Section 86-4 if the Boston Redevelopment Authority determines that the Proposed Installation will not be visible from a public street in a district other than one in which design review may be waived pursuant to this subsection 2 of Section 86-4. Any Proposed Installation for which design review is waived, pursuant to this subsection 2, shall comply with the design requirements of subsection 3 of this Section 86-4.

3. Design Requirements Where Design Review is Not Required. All wireless communications equipment that is not subject to design review shall be painted or otherwise colored to minimize the equipment's visibility and shall comply with any screening and buffering requirements of this Code applicable to the district in which such equipment is located. Equipment that is visible against a building or structure shall be colored to blend with such building or structure. Equipment that is visible against the sky or other background shall be colored in a shade that will minimize its visibility against such background.
4. Information Required for Design Review. The information required for design review shall include such plans, drawings, photographs and specifications as are necessary for the Boston Redevelopment Authority to determine that the Proposed Installation is consistent with the standards set forth in subsection 5 (Design Guidelines) of this Section 86-4. Such materials shall describe or illustrate, for such Proposed Installation, the dimensions, location and appearance of all:
 - (a) proposed wireless communications equipment;
 - (b) existing buildings, structures, and equipment mounting structures to which the proposed wireless communications equipment will be attached, and those within the visible context of such proposed equipment; and
 - (c) proposed methods for minimizing the visibility of the Proposed Installation, including all structures, screening, landscaping, cladding materials, and the like.

5. Design Guidelines. This subsection establishes the following design guidelines for Proposed Installations:
- (a) All wireless communications equipment should be sited, designed and screened to minimize the visibility of such equipment from surrounding public streets and neighborhoods.
 - (b) Where wireless communications equipment is attached to an existing building or structure, such equipment should be integrated into such existing building or structure in a manner that blends with the architectural characteristics of such building or structure.
 - (c) Where wireless communications equipment is not attached to an existing building or structure, such equipment should reflect and complement the architectural character of the surrounding neighborhood or should be screened from view in a manner compatible with such architectural character. Ground-mounted equipment should be screened from view by suitable vegetation, except where a design of non-vegetative screening or cladding better reflects and complements the architectural character of the surrounding neighborhood.
 - (d) Where wireless communications equipment is visible from surrounding streets and neighborhoods, the color of such equipment should be selected to minimize the equipment's visibility. For equipment that will be visible against the sky, the use of black is discouraged, and the use of white, gray or other light shades is encouraged.

(;As amended on July 31, 1997.)

;SECTION 86-5. Use and Dimensional Regulations for Equipment Mounting Structures.

1. Regulations Applicable in All Districts.
- (a) Installation of Reception and Transmission Equipment on Equipment Mounting Structures. Except as otherwise provided in Section 86-3 (Applicability), no reception or transmission equipment may be installed on an equipment mounting structure unless such equipment mounting structure is in compliance with the applicable provisions of this Article.
 - (b) Equipment Mounting Structures on Rooftops and Facades. Where an equipment mounting structure is mounted on the roof

or facade of a building or structure, such equipment mounting structure shall not be subject to the provisions of this Section 86-5 but shall instead be subject to the provisions of Section 86-6.1 (Use and Dimensional Regulations for Rooftop and Facade-Mounted Antennae).

2. Regulations for Industrial and Airport Districts. The provisions of this subsection 2 apply to any equipment mounting structure located in any of the following districts:

M - Restricted Manufacturing
I - General Industrial
LI - Local Industrial
IDA - Industrial Development Area
LIA - Logan International Airport

(a) Use Conditional

(b) Maximum height 200 feet
(measured from grade)

(c) Setbacks

- from street line 20 feet

- from residential districts,
open space districts, parks
and designated children's
play areas, and from
buildings used for
residential, kindergarten,
or elementary or secondary
school use 150 feet

3. Regulations for Certain Non-Residential Districts. The provisions of this subsection 3 apply to any equipment mounting structure located in any of the following districts:

B - General Business
NS - Neighborhood Shopping
CC - Community Commercial
CF - Community Facilities
EDA - Economic Development Area
NI - Neighborhood Institutional

ID/IS - Institutional
MER - Maritime Economy Reserve

- (a) Use Conditional
- (b) Maximum height 150 feet
(measured from grade)
- (c) Setbacks
 - from street line 50 feet
 - from residential districts,
open space districts, parks
and designated children's
play areas, and from
buildings used for
residential, kindergarten,
or elementary or secondary
school use 150 feet
 - from lot lines 20 feet

4. Regulations for All Other Districts. Equipment mounting structures are Forbidden wherever they are not specifically Allowed or Conditional. Such areas include, but are not necessarily limited to, parks and the following districts:

Downtown
Residential
L - Local Business
LC - Local Convenience
NDA - Neighborhood Development Area
CPS - Conservation Protection
CE - Corridor Enhancement
GPOD - Greenbelt Protection Overlay Districts
OS - Open Space
Harborpark and other waterfront (except MER)

(;As amended on July 31, 1997.)

SECTION 86-6. Use and Dimensional Regulations for Reception and Transmission Equipment.

1. Rooftop and Facade-Mounted Antennae. The provisions of this Section 86-6.1 apply to any antenna that is mounted on the exterior of any building or structure, other than an equipment mounting structure. The provisions of this Section 86-6.1 also apply to certain equipment mounting structures, as provided in paragraph (b) (Equipment Mounting Structures on Rooftops and Facades) of Section 86-5.1.

(a) Use Regulations.

- (i) Non-Residential Districts. Any antenna to which the provisions of this Section 86-6 apply is an Allowed use in any district that is not a Residential district.
- (ii) Residential Districts. Any antenna to which the provisions of this Section 86-6 apply is a Conditional use in any Residential district; provided, however, that any such antenna shall be Allowed in such district if such antenna is used exclusively as a subuse of one or more Institutional Uses, as defined in Article 2A.

- (b) Dimensional Regulations. Any antenna to which the provisions of this Section 86-6 apply is subject to the provisions of this subsection (b). For purposes of this subsection (b), the words "roof" and "facade" mean the top and side exterior surfaces, respectively, of any building or structure, other than an equipment mounting structure. For a structure that is not a building, "cornice line" means the top edge of the facade to which the antenna is attached.

(i) Roof-Mounted Antennae

- (1) Maximum height above roof:

<u>- Height of Building or Structure</u>	<u>Maximum Height of Antenna</u>
- More than 45 feet	20 feet, or 20% of building height, whichever is greater.
- 15-45 feet	10 feet

- Less than 15 feet 6 feet

(2) Setback from roof edge: 10 feet, or 10% of roof depth (measured from edge facing public street to opposite edge of roof), whichever is greater.

(ii) Facade-Mounted Antennae

(1) Maximum height above cornice line 5 feet

(2) Setback from buildings used for residential, kindergarten, or elementary or secondary school use, and from designated children's play areas 50 feet

2. Communications Dishes. The provisions of this Section 86-6.2 apply to any communications dish that is mounted on the ground or on the roof of a building or structure, other than an equipment mounting structure.

Except where otherwise specified in this Section 86-6.2, any communications dish that is subject to the provisions of this Section 86-6.2 is an Allowed use in all districts.

The following regulations concerning the dimensions and location of communications dishes apply to any communications dish that is subject to the provisions of this Section 86-6.2, except where such communications dish: (1) measures not more than eighteen inches (18") in width or diameter, or (2) is accessory to, and on the same lot as, a lawfully permitted radio or television studio, as defined in Use Item 48 of Section 8-7 or in Article 2A.

(a) Regulations for Industrial and Airport Districts. The provisions of this subsection (a) apply in the following districts:

- M - Restricted Manufacturing
- I - General Industrial
- LI - Local Industrial
- IDA - Industrial Development Area

LIA - Logan International Airport

(i) Setbacks

- from lot line 5 feet
- from districts 25 feet from residential districts, open space districts, parks, and designated children's play areas.

(ii) Yard restrictions

Front Yard: Front Yard location is Forbidden, unless there is no other feasible location on the lot, in which case the Front Yard location is Conditional.

(b) Regulations for Certain Non-Residential Districts. The provisions of this subsection (b) apply in the following districts:

- B - General Business
- NS - Neighborhood Shopping
- CC - Community Commercial
- CF - Community Facilities
- EDA - Economic Development Area
- NI - Neighborhood Institutional
- ID/IS - Institutional
- MER - Maritime Economy Reserve

(i) Setbacks

- from lot line 5 feet
- from districts 25 feet from residential districts, open space districts, parks, and designated children's play areas.

(ii) Maximum width or diameter of dish

16 feet

(iii) Maximum height
(measured from mounting surface to highest point of dish)

20 feet

(iv) Rooftop and yard restrictions

Rooftop: Rooftop location is Forbidden unless the roof has a slope of 5 degrees or less, and the setback from roof edge is at least: (1) 10 feet, or (2) 10% of the roof depth (measured from edge facing street to opposite edge of roof), whichever is greater.

Front Yard: Front Yard location is Forbidden, unless there is no other feasible location on the lot, in which case the Front Yard location is Conditional.

Notwithstanding any contrary provision of this subsection (b) of Section 86-6.2, the provisions of this subsection (b) shall not apply within an Institutional district or subdistrict to any communications dish that is used exclusively as a subuse of one or more Institutional Uses, as defined in Article 2A, provided that the distance between such dish and any residential district, open space district, park, or designated children's play area is not less than fifty (50) feet.

(c) Regulations for Residential Districts and Certain Non-Residential Districts. The provisions of this subsection (c) apply in the following districts:

Residential

- L - Local Business
- LC - Local Convenience
- NDA - Neighborhood Development Area
- CPS - Conservation Protection
- CE - Corridor Enhancement
- GPOD - Greenbelt Protection Overlay Districts

No zoning relief under Article 6 may be granted from the following requirements.

(i) Setbacks

- from lot line 10 feet

- from districts 25 feet from residential districts, open space districts, parks, and designated children's play areas.
- (ii) Maximum width or diameter of dish 7.5 feet
- (iii) Maximum height
(measured from mounting surface to highest point of dish) 10 feet
- (iv) Rooftop and yard restrictions

Rooftop: Rooftop location is Forbidden, unless: (1) there is no other feasible location on the lot; or (2) the only other feasible location on the lot is the Front Yard; in such case, the rooftop location is Conditional.

Front Yard: Front Yard location is Forbidden, unless there is no other feasible location on the lot, in which case the Front Yard location is Conditional.

Side Yard: Side Yard location is Conditional.

Notwithstanding any contrary provision of this subsection (c) of Section 86-6.2, the provisions of this subsection (c) shall not apply to any communications dish that is located within an area designated by the Zoning Commission as an Institutional Master Plan Area, provided that such dish is used exclusively as a subuse of one or more Institutional Uses, as defined in Article 2A, and provided further that there is a distance of not less than fifty (50) feet between such dish and any open space district, park, designated children's play area, or any building used for a residential, kindergarten, or elementary or secondary school use.

- (d) Regulations for Open Space Districts and Parks. The provisions of this subsection (d) apply in Open Space (OS) districts and in parks.

- (i) Maximum width or diameter of dish 18 inches

No zoning relief from this requirement may be granted under Article 6.

SECTION 86-7. Performance Standards for All Wireless Communications Equipment. The provisions of this Section 86-7 apply to all wireless communications equipment.

1. Removal of Equipment Not in Use. Any wireless communications equipment that is no longer in active use shall be removed within twelve (12) months after cessation of active use.
2. Compliance with Federal and State Regulations. All wireless communications equipment shall be in compliance with all applicable federal and state regulations.

SECTION 86-8. Special Requirements for Zoning Relief.

1. General Requirements. In granting any zoning relief from the provisions of this Article or Code for any Proposed Installation, the Board of Appeal shall consider the proximity of the Proposed Installation to residences, designated children's play areas, kindergartens, and elementary and secondary schools.
2. Relief from Dimensional Requirements. Except where otherwise specified in this Article, the Board of Appeal may grant zoning relief from the dimensional regulations of this Article in accordance with the procedure set forth in Article 6 and the requirements of this Section 86-4, provided that, in addition to the requirements set forth in this Section 86-8 and Article 6, the Board of Appeal finds that the Proposed Installation meets all of the following criteria:
 - (a) the Proposed Installation is in substantial accord with the applicable dimensional requirements of this Article;
 - (b) the Proposed Installation is consistent with the design specifications and recommendations made by the Boston Redevelopment Authority pursuant to Section 86-4 (Design Review); and
 - (c) the Proposed Installation results in impacts no greater than would result from complying with the applicable dimensional requirements of this Article.

3. Zoning Relief in Institutional Master Plan Areas, Planned Development Areas, and Urban Renewal Areas. Notwithstanding any contrary provision of this Article, the following procedures apply to the grant of zoning relief from the provisions of this Article for any Proposed Installation in an Institutional Master Plan Area, Planned Development Area, or Urban Renewal Area:
- (a) Institutional Master Plan Area. Within any area designated by the Zoning Commission as an Institutional Master Plan Area, zoning relief for a Proposed Installation may be granted through any of the following: (i) a certification from the Director of the Boston Redevelopment Authority to the Commissioner of Inspectional Services that the Proposed Installation is consistent with an approved Institutional Master Plan applicable to such Institutional Master Plan Area; (ii) the approval of a Proposed Institutional Project in an Institutional Master Plan, according to the procedures applicable to such Institutional Master Plan, where the description of such Proposed Institutional Project includes a description of the location and dimensions of the Proposed Installation; or (iii) the amendment of an Institutional Master Plan, according to the procedures applicable to such Institutional Master Plan, where such amendment describes the location and dimensions of the Proposed Installation; such amendment may be approved pursuant to any applicable regulations for the expedited review of an Institutional Master Plan amendment.
 - (b) Planned Development Areas and Urban Renewal Areas. Within any area designated by the Zoning Commission as a Planned Development Area or Urban Renewal Area special purpose overlay district, zoning relief for a Proposed Installation may be granted by the Board of Appeal, pursuant to the provisions of Article 6A, or by the Zoning Commission.

SECTION 86-9. **Regulations.** The Boston Redevelopment Authority may promulgate regulations to administer this Article.

SECTION 86-10. **Severability.** The provisions of this Article are severable, and if any provision of this Article shall be held invalid by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this Article.